

ALLEN v. USA

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1 Q. Have you heard of that text?

2 A. No.

3 Q. Okay. How about Tintinalli, T-i-n --

4 T-i-n-t-i-n-a-l-l-i?

5 A. No.

6 Q. It's an emergency room -- have you ever

7 heard of that text?

8 A. No.

9 Q. All right. I want to go to the third

10 paragraph of your report, and where you state, at

11 the last sentence: "Although Mr. Allen died later

12 in the day, the early morning urgent care visit with

13 Donna Fearey ANP at Alaska Native Medical Center

14 4/19/03 seems to have been generally appropriate."

15 And I just want to ask you: What do you mean

16 by "seems to have been generally appropriate"?

17 A. I think that it was an appropriate visit,

18 that her -- I think that what I was getting at is

19 what I referred to later on is, in hindsight, there

20 may have been some things that, you know, would have

21 helped. Like in hindsight, a neuro exam may or may

22 not have helped. But generally I felt like her --

23 her history and exam was appropriate, with the

24 exceptions of the things that I mentioned in my

25 report, that maybe there could have been a little

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1 bit more history about his vomiting or --

2 Q. Well, let me ask you about that. Let's

3 just go ahead and mark that as an -- as an exhibit,

4 the emergency room record from 4/19. So I'm

5 marking -- shoot. I always tend to do that.

6 MS. McCREADY: Do you have any blanks, so --

7 so I'm not marking one that's highlighted?

8 You can use that, if you would like.

9 MR. GUARINO: All right.

10 (Exhibit 5 marked.)

11 BY MS. McCREADY:

12 Q. So I have marked as Exhibit 5 -- that's the

13 4/19/03 emergency room visit of Todd Allen. And I'm

14 sure you reviewed this a number of times. Is

15 that -- is that right?

16 A. That's right.

17 Q. Okay. And so some of the information that

18 you had indicated in your report that in hindsight

19 may have been helpful in this case would have been a

20 more careful history. Is that correct?

21 A. Could have been a little bit more in-depth.

22 Q. Okay. And a little bit more in-depth in

23 terms of whether or not this pain was different than

24 the pain he had before?

25 A. Yes.

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1 Q. Whether or not this was the worst pain this

2 patient had ever had?

3 A. Yes.

4 Q. And the description of the -- the onset,

5 whether or not it was sudden or whether or not it

6 came on over time?

7 A. Yes.

8 Q. Anything else from the history that could

9 have been included by Nurse Fearey?

10 So for instance, do you know how much pain

11 medication this patient had taken before he showed up

12 that morning?

13 A. No, I don't.

14 Q. Do you know how many times he vomited?

15 A. No, I don't.

16 Q. Okay. Would that be information, as an

17 emergency care provider, that you would want to know

18 about this patient, if he presented in your

19 emergency room?

20 A. Could be helpful.

21 Q. Yeah. And how could it be helpful?

22 A. To help you make your diagnosis.

23 Q. Okay. And determine whether or not this is

24 more of an urgent situation as opposed to a not very

25 urgent situation?

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1 A. Yes.

2 Q. All right. Did you notice that Nurse

3 Fearey documented that this patient had -- that

4 their speech was slow?

5 A. Yes.

6 Q. And what -- what did that indicate to you?

7 A. I didn't know what it meant.

8 Q. Okay.

9 A. I didn't know what she meant by it.

10 Q. All right.

11 A. I have -- I have to say that in her

12 deposition -- can I refer to that?

13 Q. Sure, absolutely.

14 A. She said that -- I think what she said was

15 it wasn't, like, pressured, and so that could mean

16 to me that she was thinking that his speech was

17 normal.

18 Q. Right. Have you ever documented that a

19 patient's speech was slow just to show that it was

20 normal?

21 A. I probably wouldn't use those words but --

22 Q. I mean, if you wanted to document that a

23 patient's speech was normal, would you generally

24 document that it was normal as opposed to slow?

25 A. Probably.

29 (Pages 101 to 104)

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<p style="text-align: right;">Page 121</p> <p>1 Ambrose, Patricia Ambrose?</p> <p>2 <b>A. No, I don't.</b></p> <p>3 Q. Okay. And have you ever spoken with her in</p> <p>4 relation to this case?</p> <p>5 <b>A. No.</b></p> <p>6 Q. All right. Are you going to be offering</p> <p>7 any opinions on the triage decision that was made by</p> <p>8 Patricia Ambrose and whether or not that was</p> <p>9 accept- -- that was below the standard of care or</p> <p>10 not?</p> <p>11 <b>A. I don't know.</b></p> <p>12 Q. Well, let me ask you: Do you see any</p> <p>13 problems with how Patricia Ambrose triaged Todd</p> <p>14 Allen the morning of April 19th, '03?</p> <p>15 <b>A. No, I don't.</b></p> <p>16 Q. Okay. What's that based on?</p> <p>17 <b>A. That's based on -- it looks like they just</b></p> <p>18 <b>do a little short sentence of how the patient --</b></p> <p>19 <b>what the patient's chief complaint is, and she wrote</b></p> <p>20 <b>down: Ears and head are hurting, he's been up all</b></p> <p>21 <b>night. She writes down a ten for what he apparently</b></p> <p>22 <b>told her for his pain, and her objective note is</b></p> <p>23 <b>that he's sitting at ease.</b></p> <p>24 <b>And so I don't have any problem with that.</b></p> <p>25 <b>She doesn't say he's vomiting. She doesn't say, you</b></p>	<p style="text-align: right;">Page 123</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. Okay. Does that affect your opinion at all</p> <p>3 about whether or not she was reasonable in how she</p> <p>4 triaged this patient?</p> <p>5 <b>A. I don't know. I would have to think.</b></p> <p>6 <b>(Exhibit 6 marked.)</b></p> <p>7 <b>BY MS. McCREADY:</b></p> <p>8 Q. Okay. Let me go over the -- just ask you</p> <p>9 about the triage policy that I have marked as</p> <p>10 Exhibit 6. And taking a look at that, these are</p> <p>11 Bates stamped ANMC 894 through 904. And does that</p> <p>12 look like the -- what you were given in terms of</p> <p>13 what the triage policy was in place at the time --</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. -- at ANMC in 2003?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Okay. And we talked a little bit about the</p> <p>18 triage policy that -- at least before working on</p> <p>19 this case, you weren't familiar with the five</p> <p>20 level -- five levels of acuities. Is that correct?</p> <p>21 <b>A. Right.</b></p> <p>22 Q. All right. But did you review the</p> <p>23 different levels in -- at least in ANMC's policy, in</p> <p>24 terms of how patients should be triaged, in terms of</p> <p>25 who's a one, who's a two, who's a three?</p>
<p style="text-align: right;">Page 122</p> <p>1 know, anything that makes me wonder how he's doing.</p> <p>2 Q. Well, do you remember -- did you read her</p> <p>3 deposition, Patricia Ambrose?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Right. And did you remember her saying</p> <p>6 that -- that he also gotten information from his</p> <p>7 wife that he had taken all his pain pills and he</p> <p>8 threw -- and he couldn't keep them down? No, that</p> <p>9 he -- I'm sorry. Let me go back. Let me go to that</p> <p>10 actually.</p> <p>11 Do you remember -- and I can -- I can show</p> <p>12 this to you. I don't have a separate copy of it, but</p> <p>13 when -- I asked Nurse Ambrose: "What do you remember</p> <p>14 about his wife?"</p> <p>15 "She told me he took all his drugs, that he</p> <p>16 had taken all his pills and he still had pain."</p> <p>17 Do you remember that part?</p> <p>18 <b>A. No, I don't remember that.</b></p> <p>19 Q. Okay. Well, if -- does that change any of</p> <p>20 your -- this is -- this is Patricia Ambrose</p> <p>21 testifying about what she remembers about that</p> <p>22 morning. Would that be something you would think a</p> <p>23 triage nurse would actually document, that he had</p> <p>24 taken all of his drugs, taken all of his pills, and</p> <p>25 he still had pain?</p>	<p style="text-align: right;">Page 124</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. Okay. And -- and knowing what ANMC's</p> <p>3 triage policy was, how -- how would you have triaged</p> <p>4 Mr. Allen, and if you -- if you thought about that?</p> <p>5 <b>A. If -- with his ears and head hurting, a</b></p> <p>6 <b>pain ten, but he's sitting at ease, I think that I</b></p> <p>7 <b>would have put him as a three or a four.</b></p> <p>8 Q. How about if -- if you had the information</p> <p>9 that he had taken all his drugs, but he still had</p> <p>10 pain?</p> <p>11 <b>A. I might have called it a three.</b></p> <p>12 Q. Okay. Is it your understanding --</p> <p>13 <b>A. But I guess --</b></p> <p>14 Q. Go ahead. I'm sorry.</p> <p>15 <b>A. -- let me just think --</b></p> <p>16 Q. Sure.</p> <p>17 <b>A. -- about that, because if I knew that he</b></p> <p>18 <b>had taken his drugs but he had been throwing up all</b></p> <p>19 <b>night, his drugs might not have been effective.</b></p> <p>20 Q. How would you know?</p> <p>21 <b>A. I don't know.</b></p> <p>22 Q. Right. Well, would you want to ask the</p> <p>23 patient whether or not he had actually -- how many</p> <p>24 times he vomited?</p> <p>25 <b>A. Yes.</b></p>

34 (Pages 121 to 124)



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<p style="text-align: right;">Page 125</p> <p>1 Q. Okay. Would you want to know whether or</p> <p>2 not he knows whether or not he vomited up his</p> <p>3 medication?</p> <p>4 <b>A. Yep.</b></p> <p>5 Q. Because sometimes patients could actually</p> <p>6 maybe even tell that, that they could maybe even see</p> <p>7 the medication. Is that -- is that something that</p> <p>8 could happen?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. All right. But we don't know that looking</p> <p>11 from this record. Is that correct?</p> <p>12 <b>A. That's correct.</b></p> <p>13 Q. And we don't know that from reading Donna</p> <p>14 Fearey's or Patricia Ambrose's deposition. Is that</p> <p>15 right?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. All right. How important would that be,</p> <p>18 whether or not this patient had been taking pain</p> <p>19 medication and couldn't keep it down -- or how</p> <p>20 important would it be for you to know whether or not</p> <p>21 he had actually been throwing up his pain medication</p> <p>22 as opposed to not throwing up his pain medication?</p> <p>23 <b>A. Well, it factors in to what's happening</b></p> <p>24 <b>with his head -- or his pain, I should say.</b></p> <p>25 Q. Is it your understanding that patients,</p>	<p style="text-align: right;">Page 127</p> <p>1 MR. GUARINO: Objection. Foundation.</p> <p>2 BY MS. McCREADY:</p> <p>3 Q. Go ahead. You can answer that, if you can.</p> <p>4 <b>A. My answer is the same. I don't know.</b></p> <p>5 Q. Okay. Let me ask you this: Did you review</p> <p>6 the records of Dr. Dietz and Dr. Lee?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Okay. And Dr. Dietz was the emergency room</p> <p>9 physician at Providence. Is that correct?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. All right. I'm going to mark as</p> <p>12 Exhibit 7 -- this is Dr. Dietz' dictated note. It's</p> <p>13 Allen (Providence) 59, 60, 61 and 62, 62 being her</p> <p>14 handwritten notes.</p> <p>15 (Exhibit 7 marked.)</p> <p>16 MR. GUARINO: This is Exhibit 7?</p> <p>17 MS. McCREADY: Exhibit 7.</p> <p>18 Q. And did you note that at least later on</p> <p>19 this very same day, on April 19th, that Dr. Dietz,</p> <p>20 the emergency room physician, had taken a history</p> <p>21 from Mrs. Allen about what had -- what was going on</p> <p>22 with her husband that day? Was that your</p> <p>23 understanding?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. And did you have an understanding about</p>
<p style="text-align: right;">Page 126</p> <p>1 including -- included in the acuity -- acuity level</p> <p>2 three for ANMC is a patient with "pain -</p> <p>3 significant, any etiology, i.e., headaches,</p> <p>4 earaches" and "back pain"?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. And just taking at face value this</p> <p>7 emergency visit record from April 19th, would --</p> <p>8 would you consider that Mr. Allen had significant</p> <p>9 pain, any etiology, headaches, earaches, back pain?</p> <p>10 <b>A. He had pain. How significant, I can't tell</b></p> <p>11 <b>you.</b></p> <p>12 Q. Well, is that something that the triage</p> <p>13 nurse would -- that would be part of her job, in</p> <p>14 terms of determining how much pain the patient was</p> <p>15 in, whether or not it was significant or severe?</p> <p>16 <b>A. I think there's a contradictory thing here,</b></p> <p>17 <b>in that he says his pain is a ten, she says he's</b></p> <p>18 <b>sitting at ease, and so it's hard to determine how</b></p> <p>19 <b>significant it is.</b></p> <p>20 Q. All right. And -- and certainly going back</p> <p>21 to this issue of hindsight, knowing that this</p> <p>22 patient presented with a subarachnoid bleed at</p> <p>23 Providence later that day, do you have an opinion</p> <p>24 about whether or not he was in significant or severe</p> <p>25 pain that morning?</p>	<p style="text-align: right;">Page 128</p> <p>1 whether or not Mrs. Allen was present for</p> <p>2 Mr. Allen's visit with Nurse Fearey and the triage</p> <p>3 nurse that morning at ANMC?</p> <p>4 <b>A. From the notes, you can't tell that, but</b></p> <p>5 <b>from the depositions, yes, you could tell that.</b></p> <p>6 Q. That Donna Fearey remembered that his wife</p> <p>7 was there. Is that correct?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. And certainly the triage nurse remembered</p> <p>10 that, because she remembered the wife giving her</p> <p>11 information. Is that correct?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. All right. And so when the nurse -- I'm</p> <p>14 sorry -- when Dr. Dietz, the emergency room</p> <p>15 physician, notes that, at least taking the history</p> <p>16 from the wife, that he apparently developed a severe</p> <p>17 headache earlier this morning, would that be</p> <p>18 consistent with him -- if somebody -- if -- if she</p> <p>19 says that the wife reported he had a severe headache</p> <p>20 earlier that morning -- and assume for a moment that</p> <p>21 that's, in fact, what he had, a severe headache</p> <p>22 earlier that morning -- would he be properly triaged</p> <p>23 as a four under the ANMC's triage policy?</p> <p>24 <b>A. If he had a severe headache?</b></p> <p>25 Q. Uh-huh.</p>

35 (Pages 125 to 128)